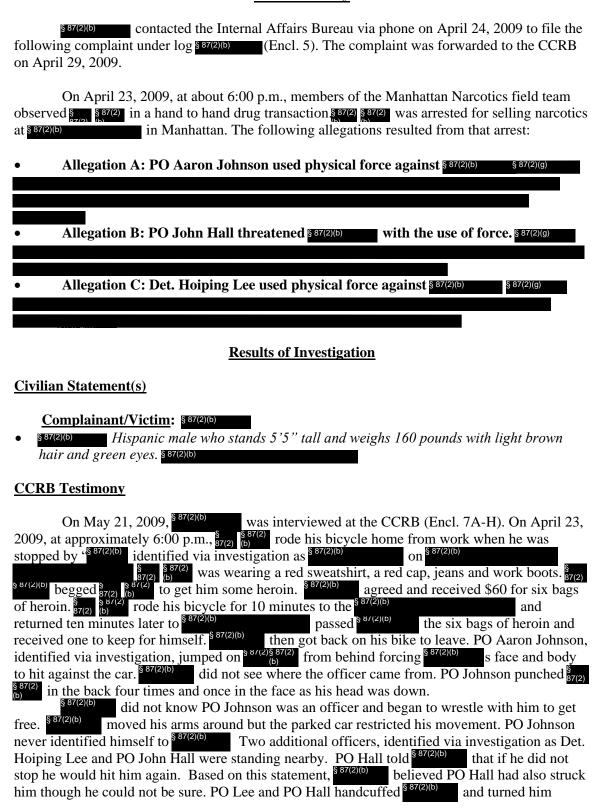
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	▼ F	orce		Discourt.	U.S.
Nina Mickens		Team # 2	200906577	☑ A	buse		O.L.	Injury
Incident Date(s)		Location of Incident:	•	Pre	ecinct:	18	Mo. SOL	EO SOL
Thursday, 04/23/2009 6:00 PM		137 East 2nd Street			09	10	/23/2010	10/23/2010
Date/Time CV Reported		CV Reported At: How CV Reported: Date of the CV Reported Date of the CV Report			Date/Time Received at CCRB			
Fri, 04/24/2009 6:18 PM		IAB Phone W			/ed, 04/29/2009 3:16 PM			
Complainant/Victim	Type	Home Addre	SS					
Witness(es)		Home Addre	ss					
Subject Officer(s)	Shield	TaxID	Command					
1. DT3 Hoiping Lee	02882	917860	NARCBMS					
2. POM John Hall	13789	936725	NARCBMS					
3. POM Aaron Johnson	14203	935072	NARCBMS					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. DT3 Lynn Brown	01171	898978	NARCBMS					
2. SGT Corey Dailey	00425	913758	NARCBMS					
Officer(s)	Allegatio	on			Inve	stiga	tor Recon	nmendation
A.POM Aaron Johnson	Force: PO Aaron Johnson used physical force against \$\sec{87(2)}{16}\$							
B.POM John Hall	Abuse: PO John Hall threatened § 87(2)(b) with the use of force.							
C.DT3 Hoiping Lee	Force: PO Hoiping Lee used physical force against \$87(2)							

Case Summary



Page 2 CCRB Case # 200906577 around. PO Lee stated that \$87(2)(b) liked to resist and then he punched \$87(2)(b) with a closed fist once in the right eye. No other force was used following the punch. When \$87(2)(b) asked the officers why they struck him, they said it was because he resisted arrest. \$87(2)(b) denied resisting and stated that he would not have behaved that way if he knew they were officers.

The officers radioed that they had him and ten minutes later an officer, who appeared to be in charge, and was identified via investigation as Sgt. Corey Dailey, responded to the scene in a black unmarked vehicle. A female officer, identified via investigation as Det. Lynn Brown, also responded. Det. Brown searched \$87(2)(b) and removed his phone. Sgt. Dailey told that he should apologize to PO Johnson. \$87(2)(b) said that PO Johnson struck him and he was not going to apologize. \$87(2)(b) was bleeding from a cut over his right eye. He had a cut over the bridge of his nose from when he initially fell against the car. \$87(2)(b) told \$87(2)(b) that he saw him being beaten by officers when the men were in the prisoner van.

At the precinct, \$\sigma_{\text{S}}\sigma_{\text{C}}\text{(b)} \text{ asked PO Hall to go to the hospital. PO Hall told \$\sigma_{\text{S}}\sigma_{\text{C}}\text{(b)} \text{ took the comment to mean that the officer would beat him up again so he was scared and no longer wished to go to the hospital. After a few hours, \$\sigma_{\text{S}}\sigma_{\text{C}}\text{(b)} \text{ went to Central Booking and then to Riker's Island. He described his injuries as a swollen eye, swollen nose and back pain. He was given Tylenol 3 with codeine for pain and did not seek any additional medical treatment after being released from Rikers Island. \$\sigma_{\text{S}}\sigma_{\text{C}}\text{(b)} \text{ injuries were no longer visible on the date of his CCRB interview. He brought in photographs of his injuries that were taken by his daughter, \$\sigma_{\text{S}}\sigma_{\text{C}}\text{(c)} \text{ son Tuesday, April 28, 2009. The photographs show redness and bruising around \$\sigma_{\text{S}}\sigma_{\text{C}}\text{(c)} \text{ so right eye. The laceration on the nose was completely healed.}

Attempts to Contact Civilian

A letter was sent to \$87(2)(b) s residence on June 15, 2009 and July 29, 2009. Between June 15, 2009 and August 17, 2009, five phone calls were placed to \$87(2)(b) On June 15, 2009, \$87(2)(b) answered the phone and updated his contact information. He was ill and could not speak. He asked to be contacted at a later time. On August 17, 2009, \$87(2)(b) s wife answered and stated that \$87(2)(b) left the residence and does not know when he was going to return. A check of the department of corrections confirmed that \$87(2)(b) is not incarcerated. To date, \$87(2)(b) has not contacted the CCRB.

NYPD Statement(s):

Witness Officer: POLICE OFFICER AARON JOHNSON

- §87(2)(b) -old black male, 6'3" tall and 230 pounds with a bald with brown eyes.
- Worked on April 23, 2009, a tour of 1:33p.m until 10:00p.m. Assigned to observations and worked the unmarked blue prisoner van with PO Hall. Both officers were dressed in plainclothes. Other members of the team were Det. Lee, Det. Brown and Sgt. Dailey. PO Johnson has worked with the narcotics team for 11 months.

Memo Book

Two under arrest opposite (Encl. 19A-C). PO Johnson could not read the time of the entry as it was not legible.

CCRB Testimony

PO Johnson was interviewed at the CCRB on October 27, 2009 (Encl. 20A-B). On April 23, 2009, at approximately 6:00 p.m., Sgt. Dailey informed PO Johnson via radio that §87(2)(b)

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and another individual, identified via photograph as §87(2)(b) met on the corner of §87(2)(b) in Manhattan. This is a robbery and drug prone location. PO Johnson was instructed to watch § 87(2)(b) as \$87(2)(b) left the location. PO Johnson did not know either male and did not recognize them from a previous interaction. Sgt. Dailey, Det. Brown and Det. Lee followed § 37(2)(b) who was on a bicycle, to a housing project. After 15 minutes, Sgt. Dailey and his partners told PO Johnson that \$87(2)(b) was coming back to the location where \$87(2)(b) was standing. When \$87(2)(b) came back on the bike, PO Johnson followed him and \$87(2)(b) on foot. At the same time, Det. Brown and Sgt. Dailey were crossing on to the same side of the street to. PO Johnson was 40-50 feet behind §87(2)(b) and observed him exchange money for was off the bike when he did this. § 87(2)(b) turned around and drugs with § 87(2)(b) walked towards PO Johnson's direction. Sgt. Dailey and Det. Brown stopped \$87(2)(6) Sgt. Dailey gave PO Johnson the signal to stop § 87(2)(b) PO Johnson wanted to get behind § 87(2)(b) so that it would be easier to apprehend him. [87(2)(b) was on his bicycle again so PO Johnson did not want to be hit with it. PO Johnson grabbed him from behind, yelled "police" and ordered him not to move. \$87(2)(6) attempted to swing the bike at PO Johnson. The two struggled and PO Johnson put § 37(2)(b) against the hood of a parked van. PO Johnson noticed that § 37(2)(b) had glassines of heroin in his right hand while still holding on to the bike handle. PO Johnson instructed \$87(2)(b) to put down the bike and place his hands behind his back. 887(2)(5) did not comply. PO Johnson tried to pull s hands off of the handles so that he would not destroy the evidence. He did not punch at any time. PO Johnson and \$87(2)(6) struggled for some time before Det. Lee, PO Hall and Det. Brown came to assist. The officers grabbed one of \$37(2)(b) s arms and put it in handcuffs. It took a little over a minute to handcuff \$37(2)(b) The assisting officers did not strike during the struggle or after he was handcuffed. While §87(2)(b) was in handcuffs, PO Johnson observed that a cut on §87(2)(b) was not bleeding and PO Johnson was not sure how the injury was sustained. § 87(2)(6) transported to PSA 4 where the heroin was vouchered. §87(2)(6) did not request medical attention and PO Johnson did not observe any swelling on his face or any new injuries.

Subject Officer: DETECTIVE HOIPING LEE

- §87(2)(b) -old Asian male, 6'0" tall and 230 pounds with black hair and brown eyes.
- Worked a tour of 2:00 p.m on April 23, 2009 until 1:00a.m.the following day. Assigned to the Manhattan South Narcotics Team with Sgt. Dailey, Det. Brown, and PO Johnson. All officers worked in plainclothes. Det. Lee was assigned to a black minivan with Sgt. Daily and Det. Brown. Aaron Assignment, partner, vehicle, uniform or plainclothes and tour.

Memo Book

At 6:00 p.m., pick up opposite ^{§ 87(2)(b)}
(Encl. 10A-C). 6:25 p.m., En route to PSA 4 for arrest processing.

CCRB Testimony

Det. Lee was interviewed at the CCRB on August 25, 2009 (Encl. 11A-B). Solve Det. Lee remained in the car while Sgt. Dailey and Det. Brown exited. Det. Lee could not see Solve Organization or Sgt. Dailey to move in, which meant that there was a positive drug transaction between Solve Organization Sgt. Dailey to move in, which meant that there was a positive drug transaction between Solve Organization Sgt. Dailey was with Sgt.

Page 4 CCRB Case # 200906577 10-15 feet away. \$\frac{87(2)(b)}{2}\$ s chest was pressed against the rear of a car and he was moving his arms. Det. Lee assisted the officers by grabbing \$\frac{87(2)(b)}{2}\$ s arms and handcuffing him. Once was handcuffed he no longer resisted. At no time during the struggle did Det. Lee see an officer punch \$\frac{87(2)(b)}{2}\$ Det. Lee denied punching \$\frac{87(2)(b)}{2}\$ in the face at any point. Det. Lee observed a small cut on \$\frac{87(2)(b)}{2}\$ s nose but he did not see how the injury was sustained. At no time did Det. Lee hear any officer threaten to hit \$\frac{87(2)(b)}{2}\$ was asked if he wanted medical treatment but he refused. \$\frac{87(2)(b)}{2}\$ s arrest photograph was shown to Det. Lee and he identified the laceration to \$\frac{87(2)(b)}{2}\$ s nose as the injury he saw. There was also swelling around \$\frac{87(2)(b)}{2}\$ s cheeks. Another photograph taken by

on April 28, 2009 was shown. It displayed bruising around \$87(2)(b) s right eye. Det.

Witness Officer: SERGEANT COREY DAILEY

• §87(2)(b) -old black male, 6'0" tall, 205 pounds, with black hair and brown eyes.

Lee was not sure how that injury was sustained as it was dated four days after the incident.

• Worked a tour of 2:00 p.m. until 10:00 p.m. on April 23, 2009. Assigned as the supervisor of a buy and bust operation with PO Hall, PO Johnson, Det. Lee and Det. Brown. All officers were dressed in plainclothes and assigned to unmarked vehicles. Sgt. Dailey was in a minivan with Det. Lee and Det. Brown.

Memo Book

17:45 p.m., two pick up arrests on the side \$87(2)(b) (Encl. 17A-B).

CCRB Testimony

Sgt. Dailey was interviewed at the CCRB on September 16, 2009 (Encl. 18A-B). (g). After observing what he believed to be a potential drug sale between \$87(2)(b) and \$87(2)(b) Sgt. Dailey and his team followed them. Sgt. Dailey then saw \$87(2)(b) pass \$87(2)(b) a small item and both men walked away. Based on this observation, Sgt. Dailey and Det. Brown moved in to Half a block away, PO Johnson initiated contact with \$87(2)(b) and PO Hall and Det. Lee assisted. §87(2)(b) resisted and did not want to get off the bicycle. PO Johnson initiated that interaction with \$87(2)(b) then PO Hall and Det. Lee came to assist him. Given that \$37(2)(b) did not want to get off of his bicycle, PO Johnson grabbed him. then began fighting with PO Johnson. PO Johnson wrestled with § 87(2)(b) sometime before Det. Brown ran over to help. Sgt. Dailey was dealing with \$87(2)(b) could not see each action that the officers took with §87(2)(b) He could not say if any punches were thrown by \$37(2)(b) or the officers. When Sgt. Dailey got closer, \$87(2)(b) was in handcuffs and breathing heavy with a cut on the bridge of his nose. § 97(2)(b) was compliant once he was handcuffed. Det. Lee did not punch \$87(2)(b) in the face after he was handcuffed. At PSA 4 \$87(2)(b) did not request medical attention. \$87(2)(b) s cut had stopped bleeding before he was transported to the PSA. Sgt. Dailey viewed a photograph of \$37(2)(b) with a swollen and bruised eye. Sgt. Dailey did not how \$87(2)(5) obtained the injury. At no time in the interaction did Sgt. Dailey hear PO Hall tell \$87(2)(b) that he would use force against him.

Subject Officer: POLICE OFFICER JOHN HALL

- §37(2)(b) -old white male, 5'10" tall and 210 pounds with brown hair and blue eyes
- Worked a tour of 1:27 p.m. and accrued overtime until 1:00 a.m. the following day. Assigned to the prisoner within a buy and bust operation with PO Johnson. Both officers were

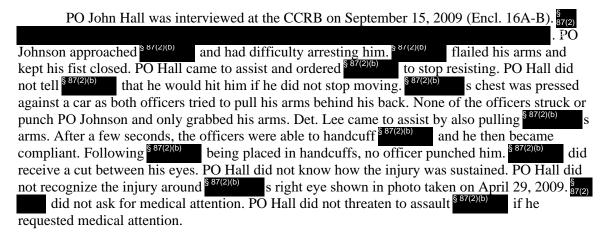
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dressed in plainclothes and assigned to an unmarked blue van. The team was also comprised of Det. Lee, Det. Brown and Sgt. Dailey.

Memo Book

PO Hall did not bring his memo book with him for his interview.

CCRB Testimony



Witness Officer: DETECTIVE LYNN BROWN

- \$\frac{\partial \partial \pa
- Worked a tour of 2:00 p.m. until 10:00 p.m. with overtime to 2:00 a.m. the following day. She was the arresting officer within a buy and bust operation and also did observations. She was in an unmarked car with Det. Lee and Sgt. Dailey, in which Det. Lee was the driver. PO John Hall and PO Aaron Johnson were assigned to the prisoner van. All of the officers were dressed in plain clothes.

Memo Book At 4:15 p.m., tactical meeting, pick up observation sale, pick up arrest side of (Encl. 15A-B). \$87(2)(b) . 6:00 p.m., at PSA4.

Det. Brown was interviewed at the CCRB on August 27, 2009 (Encl. 15A-B). was placed in handcuffs, Det. Brown noticed that structure had a scratch on his nose that was bleeding. However, she did not see how the injury was sustained. Det. Brown did not see Det. Lee or any officer punch § 87(2)(b) in the face. Det. Brown talked to § 87(2)(b) and asked him why he made. There were no problems with resisted. She could not recall any comments that s arrest. PO Hall and PO Johnson took § 87(2)(b) to PSA4. The narcotics team remained together as they processed both arrests. §87(2)(b) did not complain of pain or request medical attention. Det. Brown did not observe any additional injuries. A photograph of \$87(2)6 with brusing on the right eye was shown. Det. Brown did not see the injury and did not see how it was sustained.

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was seen by the Department of Health and Mental Hygiene while he was incarcerated on [87(2)(b)] (Encl. 21A-R). [87(2)(b)] received an x-ray of his nose and back on [87(2)(b)] He had a deformed right rib from an old fracture but no new fractures. He was prescribed Methadone for six days, Tylenol and other medications. [87(2)(b)] Is medical problems included diabetes, hypertension, cigarette smoker and cocaine user. He had bruising, swelling and tenderness from being assaulted. [87(2)(b)] admits that he used two bags of cocaine occasionally and takes Methadone. [87(2)(b)] alleges that the last day of his drug use was [87(2)(b)].

NYPD Document(s)

On-Line Booking Sheet (OLBS)

was selling a quantity of a controlled substance to an apprehended other \$87(2) near school grounds (Encl. 12A-C). He resisted arrest by flailing his arms and legs. No force is noted as being used. \$87(2)(b) s OLBS notes that he was observed purchasing a quantity of a controlled substance from \$87(2)(b) and was subsequently charged with \$87(2)(b)

Property voucher

Vouchered to was arrest evidence of one glassine of heroine recovered from the ground, a cell phone used for narcotics transactions and \$38 dollars proceeds from drug transactions (Encl. 13A-C).

Medical Treatment of Prisoner Form

The Medical treatment of prisoner report states that §87(2)(b) had a swollen right eye and a small cut on the bridge of his nose that occurred at the time of his arrest (Encl. 25).

Pre-arraignment screening form

Documents that \$87(2)(b) used heroin and that \$87(2)(b) sustained a laceration over his nose (Encl. 22A-B).

Summons/Arrest for Incident and Disposition

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

• \$87(2)(b) has not filed a Notice of Claim with the City of New York as of December 16, 2009, with regard to the incident (Encl. 28E).

Civilian(s) Criminal History

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

• This is the first CCRB complaint filed by § 87(2)(6) (Encl. 4)

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Subject Officer(s) CCRB History

- PO Johnson has been a member of service for five years and there are no substantiated CCRB allegations against him. (Encl. 2A)
- Det. Lee has been a member of the service for 13 years and there are no substantiated CCRB allegations against him (Encl. 2B).
- PO Hall has been a member of the service for four years and there are no substantiated CCRB allegations against him. (Encl. 3).

Conclusion

Identification of Subject Officer(s)

s physical description of the officer that punched him after he was handcuffed matched Det. Lee's pedigree. Det. Lee and PO Hall acknowledged their interaction with \$87(2)(b)

Investigative Findings and Recommendations

Allegations Not Pled
§ 87(2)(g)
Allegation A: PO Aaron Johnson used physical force against § 87(2)(b)
§ 87(2)(9) § 87(2)(b) alleged that PO
Johnson punched him in the back four times and once in the face while trying to apprehend him
and place him under arrest. PO Johnson denied punching \$87(2)(b) and stated that he did not want
to hurt \$87(2)(b) because of his age and size. PO Johnson admitted to placing \$87(2)(b) s body
against a parked car and grabbing his arms to control and arrest him. The other officer
interviewed corroborated PO Johnson's statement. According to Patrol Guide Procedure 203-11,
Only that amount of force necessary to overcome resistance will be used to effect an arrest (Encl.
1A-B). § 87(2)(9)
Allegation B: PO John Hall threatened § 87(2)(b) with the use of force.
§ 87(2)(g) Was
not sure if PO Hall aided in the physical force used against him. However, §87(2)(b) alleged that
PO Hall said that he would hit again if he did not stop moving. PO social denied making this
statement. The officers interviewed corroborate PO Hall's statement. §87(2)(9)
Allegation C: Det. Hoiping Lee used physical force against § 87(2)(b)
§ 87(2)(9)
Det. Lee denied this. All of the officers interviewed, corroborated Det. Lee's

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statement. The medical records records red medical treatment of a prisoner for photographs that were taken four of	rm notes that § 87(2)(b) s righ	t eye was swollen. § 87(2)(b) s
eye. § 87(2)(g)	lays after the incident show h	fore severe bruising of the right
Team: 2		
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Investigator	Nina S. Miakana	
Investigator:Signature	Nina S. Mickens Print	Date
Supervisor:	Print	Date
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Reviewer:		Data
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